

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

LENIER AYERS,

Plaintiff,

v.

No. C08-5541 RJB/KLS

HENRY RICHARDS, RICHARD  
STEINBACH, MIKE HOGAN, JERAMY  
DORFNER, BECKY DENNY, JOSE  
GARCIA, LESLIE SZIEBERT, THOMAS  
BELL, and KRYSTAL KNUTSON,

Defendants.

ORDER DENYING PLAINTIFF'S  
MOTION FOR REARGUMENT (DKT.  
103)

Before the court is Plaintiff's "Motion for Reargument and Continuance to Permit Depositions to be Taken Against Defendants Jose Garcia and Jeramy Dorfner Pursuant to Rule 56 of Rules of Civ. Procedure, Also Rule 59, Leave of Court for Review Date." Dkt. 103. Having reviewed the motion, Defendants' response in opposition (Dkt. 105), the court finds that the motion should be denied. Plaintiff's claims against Defendants Garcia and Dorfner have been dismissed with prejudice.

**DISCUSSION**

Mr. Ayers filed this action in August, 2008. Dkt. 1. He did not engage in discovery before the November 2009 discovery deadline. Dkt. 41. Defendants moved for summary

1 judgment dismissal in December 2009. Dkts. 15 and 50. The district court dismissed Mr. Ayers'  
2 claims regarding Defendants Dorfner and Garcia on June 16, 2010. Dkt. 89.

3 Mr. Ayers relies on Fed. R. Civ. P. 59(e) in support of his request to reargue his claims  
4 against Defendants Dorfner and Garcia. Dkt. 103, ¶ 10. Rule 59(e) provides that  
5 “[a] motion to alter or amend a judgment must be filed no later than 28 days after the entry of the  
6 judgment.” Mr. Ayers’ claims against Defendants Dorfner and Garcia were dismissed with  
7 prejudice (Dkt. 89), but the district court has not yet entered a judgment in the case because  
8 additional issues remain for adjudication. The dispositive motion deadline as to the remaining  
9 issues is September 3, 2010. Dkt. 98, p. 3.

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11 To the extent Mr. Ayers’ motion can be construed as a motion for reconsideration under  
12 Local Rule CR 7(h)(2), his motion is untimely. Rule 7(h)(2) requires motions for  
13 reconsideration to be filed within 14 days of the order at issue. *Id.* Mr. Ayers filed his motion  
14 on August 13, 2010; his claims against Defendants Dorfner and Garcia were dismissed on June  
15 16, 2010. Dkt. 89.<sup>1</sup>

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17 Accordingly, it is **ORDERED**:

18 (1) Plaintiff’s Motion for Re-Argument & Continuance to Permit Depositions (Dkt.  
19 103) is **DENIED**.

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<sup>1</sup> Under separate order, the court has denied Plaintiff’s request to reopen discovery and to review videos depicting his altercations with Defendants Dorfner and Garcia. The court finds Mr. Ayers’ assertions that he has been denied access to the videos to be spurious and harassing. The record clearly shows that he has had access to the video recordings since at least February 12, 2009, when the tapes were given to SCC’s legal coordinator, and again in December 2009, after Defendants filed their summary judgment motion. Dkt. 104, Exhs. 1 and 2.

1           (2)     The Clerk is directed to send a copy of this Order to Plaintiff and to counsel for  
2 Defendants.

3           DATED this 30th day of August, 2010.

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6 Karen L. Strombom  
7 United States Magistrate Judge  
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